

**SHB 1347** - S COMM AMD

By Committee on Financial Institutions, Housing & Consumer  
Protection

ADOPTED AS AMENDED 04/15/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature has directed the financial  
4 literacy public-private partnership to complete certain tasks to  
5 support efforts to increase the level of financial literacy in the  
6 common schools. In order to promote a greater understanding by  
7 students of the consequences of a dishonored check, the legislature  
8 intends to extend by one year the date by which the financial literacy  
9 public-private partnership must identify strategies to increase the  
10 financial literacy of public school students in Washington.

11 **Sec. 2.** RCW 28A.300.455 and 2004 c 247 s 3 are each amended to  
12 read as follows:

13 (1) By September 30, 2004, the financial literacy public-private  
14 partnership shall adopt a definition of financial literacy to be used  
15 in educational efforts.

16 (2) By June 30, (~~2005~~) 2006, the financial literacy public-  
17 private partnership shall identify strategies to increase the financial  
18 literacy of public school students in our state. To the extent funds  
19 are available, strategies to be considered by the partnership shall  
20 include, but not be limited to:

21 (a) Identifying and making available to school districts:

22 (i) Important financial literacy skills and knowledge;

23 (ii) Ways in which teachers at different grade levels may integrate  
24 financial literacy in mathematics, social studies, and other course  
25 content areas;

26 (iii) Instructional materials and programs, including schoolwide  
27 programs, that include the important financial literacy skills and  
28 knowledge;

1 (iv) Assessments and other outcome measures that schools and  
2 communities may use to determine whether students are financially  
3 literate; and

4 (v) Other strategies for expanding and increasing the quality of  
5 financial literacy instruction in public schools, including  
6 professional development for teachers;

7 (b) Developing a structure and set of operating principles for the  
8 financial literacy public-private partnership to assist interested  
9 school districts in improving the financial literacy of their students  
10 by providing such things as financial literacy instructional materials  
11 and professional development; and

12 (c) Providing a report to the governor, the house and senate  
13 financial institutions and education committees of the legislature, the  
14 superintendent of public instruction, the state board of education, and  
15 education stakeholder groups, on the results of work of the financial  
16 literacy public-private partnership. A final report shall be submitted  
17 to the same parties by June 30, 2007.

18 NEW SECTION. **Sec. 3.** (1) If a check as defined in RCW 62A.3-104  
19 is dishonored by nonacceptance or nonpayment and the check is assigned  
20 or written to a collection agency as defined in RCW 19.16.100, the  
21 collection agency may collect a reasonable handling fee for each  
22 instrument. If the collection agency or its agent provides a notice of  
23 dishonor in the form provided in section 4 of this act to the drawer  
24 and the check amount plus the reasonable handling fee are not paid  
25 within thirty-three days after providing the notice of dishonor, then,  
26 unless the instrument otherwise provides, the drawer of the instrument  
27 is liable for payment of interest at the rate of twelve percent per  
28 annum from the date of dishonor, and a cost of collection of forty  
29 dollars or the face amount of the check, whichever is less, payable to  
30 the collection agency. In addition, in the event of court action on  
31 the check and after notice and the expiration of the thirty-three days,  
32 the court shall award reasonable attorneys' fees, and three times the  
33 face amount of the check or three hundred dollars, whichever is less,  
34 as part of the damages payable to the collection agency. This section  
35 does not apply to an instrument that is dishonored by reason of a  
36 justifiable stop payment order.

1 (2) Subsequent to the commencement of an action on the check under  
2 subsection (1) of this section but prior to the hearing, the defendant  
3 may tender to the plaintiff as satisfaction of the claim, an amount of  
4 money equal to the face amount of the check, a reasonable handling fee,  
5 accrued interest, collection costs equal to the face amount of the  
6 check not to exceed forty dollars, and the incurred court costs,  
7 service costs, and statutory attorneys' fees.

8 (3) Nothing in this section precludes the right to commence action  
9 in a court under chapter 12.40 RCW for small claims.

10 NEW SECTION. **Sec. 4.** (1) If a check is assigned or written to a  
11 collection agency as defined in RCW 19.16.100 and the collection agency  
12 or its agent provides a notice of dishonor, the notice of dishonor may  
13 be sent by mail to the drawer at the drawer's last known address. The  
14 collection agency may, as an alternative to providing a notice in the  
15 form described in RCW 62A.3-520, provide a notice in substantially the  
16 following form:

17 NOTICE OF DISHONOR OF CHECK

18 A check drawn by you and made payable by you to . . . . . in the  
19 amount of . . . . . has not been accepted for payment by . . . . .,  
20 which is the drawee bank designated on your check. This check is dated  
21 . . . . ., and it is numbered, No. . . . .

22 You are CAUTIONED that unless you pay the amount of this check and  
23 a handling fee of . . . . . within thirty-three days after the date  
24 this letter is postmarked or personally delivered, you may very well  
25 have to pay the following additional amounts:

26 (a) Costs of collecting the amount of the check in the lesser of  
27 the check amount or forty dollars, plus, in the event of legal action,  
28 court costs and attorneys' fees, which will be set by the court;

29 (b) Interest on the amount of the check which shall accrue at the  
30 rate of twelve percent per annum from the date of dishonor; and

31 (c) Three hundred dollars or three times the face amount of the  
32 check, whichever is less, by award of the court.

33 You are also CAUTIONED that law enforcement agencies may be  
34 provided with a copy of this notice of dishonor and the check drawn by  
35 you for the possibility of proceeding with criminal charges if you do  
36 not pay the amount of this check within thirty-three days after the  
37 date this letter is postmarked.

1 You are advised to make your payment of \$. . . . . to . . . . .  
2 at the following address: . . . . .

3 (2) The cautionary statement regarding law enforcement in  
4 subsection (1) of this section need not be included in a notice of  
5 dishonor sent by a collection agency. However, if included and whether  
6 or not the collection agency regularly refers dishonored checks to law  
7 enforcement, the cautionary statement in subsection (1) of this section  
8 shall not be construed as a threat to take any action not intended to  
9 be taken or that cannot legally be taken; nor shall it be construed to  
10 be harassing, oppressive, or abusive conduct; nor shall it be construed  
11 to be a false, deceptive, or misleading representation; nor shall it be  
12 construed to be unfair or unconscionable; nor shall it otherwise be  
13 construed to violate any law.

14 (3) In addition to sending a notice of dishonor to the drawer of  
15 the check under this section, the person sending notice shall execute  
16 an affidavit certifying service of the notice by mail. The affidavit  
17 of service by mail must be substantially in the following form:

18 AFFIDAVIT OF SERVICE BY MAIL

19 I, . . . . ., hereby certify that on the . . . . . day of  
20 . . . . ., 20. . . ., a copy of the foregoing Notice was served on  
21 . . . . . by mailing via the United States Postal Service, postage  
22 prepaid, at . . . . ., Washington.

23 Dated: . . . . .

24 (Signature)

25 (4) The person enforcing a check under this section shall file the  
26 affidavit and check, or a true copy thereof, with the clerk of the  
27 court in which an action on the check is commenced as permitted by  
28 court rule or practice.

29 NEW SECTION. **Sec. 5.** No interest, collection costs, and  
30 attorneys' fees, except handling fees, are recoverable on any  
31 dishonored check under the provisions of section 3 of this act where a  
32 collection agency or its agent, employee, or assign has demanded:

33 (1) Interest or collection costs in excess of that provided by  
34 section 3 of this act; or

35 (2) Interest or collection costs prior to the expiration of thirty-

1 three days after the serving or mailing of the notice of dishonor, as  
2 provided by section 3 or 4 of this act; or

3 (3) Attorneys' fees other than statutory attorneys' fees without  
4 having the fees set by the court, or any attorneys' fees prior to  
5 thirty-three days after the serving or mailing of the notice of  
6 dishonor, as provided by section 3 or 4 of this act.

7 NEW SECTION. **Sec. 6.** Sections 3 through 5 of this act are each  
8 added to chapter 62A.3 RCW under the subchapter heading "DISHONOR."

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9 On page 1, line 1 of the title, after "checks;" strike the  
10 remainder of the title and insert "amending RCW 28A.300.455; adding new  
11 sections to chapter 62A.3 RCW; and creating a new section."

EFFECT: First, the conclusive presumption that the debtor  
received notice of a dishonored check three days after mailing a notice  
is taken out, allowing a debtor to demonstrate that he or she did not  
receive notice.

Second, instead of allowing a collection agency to either retain an  
affidavit certifying notice or file the affidavit with the court, the  
agency is required to file the affidavit and check (or a copy thereof)  
with the court.

**--- END ---**